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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1997/38

Addendum

Visit by the Special Rapporteur to Mexico

CONTENTS

	Paragraphs	Page
Introduction	1 - 6	2
I. THE PRACTICE OF TORTURE: SCOPE AND CONTEXT	7 - 29	3
II. THE PROTECTION OF DETAINEES AGAINST TORTURE: LEGISLATION AND PRACTICE	30 - 45	10
III. TORTURE VICTIMS' RIGHT TO EFFECTIVE REMEDY	46 - 70	14
IV. CONCLUSIONS AND RECOMMENDATIONS	71 - 88	20
Annex: Selected cases submitted by non-governmental organizations to the Special Rapporteur on the question of torture for the years 1996-1997		27

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Introduction

1. Following a request by the Special Rapporteur, the Government of Mexico invited him to visit the country in 1996 within the framework of his mandate. The visit, which took place from 7 to 16 August 1997, enabled the Special Rapporteur to achieve his aim of collecting first-hand information from a wide range of contacts in order better to assess the situation with regard to the practice of torture in Mexico.

2. During his visit the Special Rapporteur held meetings in the Federal District with the following authorities: the Minister of the Interior, the Minister for Foreign Affairs, Members of the Federal Judicature Council, the Under-Secretary for Civil Protection and Social Rehabilitation of the Ministry of the Interior, the Attorney-General of the Republic, the Government Procurator for Military Justice, the Government Procurator of the Federal District, the Human Rights Commissions of the Senate and the Chamber of Deputies, the President of the National Human Rights Commission, the President of the Federal District Human Rights Commission and authorities of the service of forensic medicine of the High Court of Justice of the Federal District.

3. The Special Rapporteur also met persons who themselves or whose relatives had allegedly been torture victims, and received verbal and/or written information from non-governmental organizations including the following: Association of Christians for the Abolition of Torture; "Miguel Agustín Pro Juárez" Human Rights Centre; Las Huastecas and Sierra Oriental Centre for Human Rights; "Fray Francisco de Vitoria O.P." Centre for Human Rights; "Fray Bartolomé de las Casas" Human Rights Centre; San Cristóbal de las Casas (Chiapas); Indigenous Regional Development Centre (CEDRI); La Mexteca Regional Human Rights Centre, Oaxaca; Centre for Frontier Studies and Promotion of Human Rights of Reynosa, Tamaulipas; Human Rights Defence and Solidarity Commission of Chihuahua; Mexican Commission for the Defence and Promotion of Human Rights; Committee for the Defence of Oil Workers' Union Prisoners; Human Rights Committee of Tabasco; "Mahatma Gandhi" Human Rights Commission of Oaxaca; Ednica; Eureka; Human Rights Clinic of the St. Mary's University School of Law (San Antonio, Texas); Mexican League for the Defence of Human Rights; and the Human Rights Secretariat of the Democratic Revolution Party.

4. From 9 to 11 August the Special Rapporteur travelled to the town of Chilpancingo (Guerrero), where he met the State Governor, the Secretary-General of the Government, the Government Procurator, the State Congress Coordinator, the President of the High Court of Justice and the President of the Commission for the Defence of Human Rights. He also met persons who alleged that they or their relatives had been victims of torture, and received verbal and/or written information from non-governmental organizations including the following: La Montaña Human Rights Centre, Tlachinollan, Diocese of Tlapa; "La voz de los sin voz" Human Rights Centre, Coyuca de Benitez; Committee for the Defence and Support of Indian Communities and Peoples, Costa Chica; Human Rights Institute of Guerrero, Chilpancingo; and "José María Morelos y Pavón" Regional Centre for the Defence of Human Rights, Chilapa. The State of Guerrero was selected for the visit because it was the State from which the Special Rapporteur had received the largest number of complaints in the previous few months.

5. In order to interview prisoners who had allegedly been tortured, the Special Rapporteur visited the Federal Social Rehabilitation Centre (CEFERESO) of Almoloya de Juárez, the Social Rehabilitation Centre (CERESO) of Chilpancingo and the women's sector of the Northern Preventive Prison of the Federal District, and also met the authorities in charge.

6. The Special Rapporteur thanks the Government of Mexico for allowing him to make this visit and for its valuable collaboration, which greatly facilitated his task.

I. THE PRACTICE OF TORTURE: SCOPE AND CONTEXT

Information submitted by non-governmental sources

7. Before and during his visit to the country, the Special Rapporteur received a great deal of information from non-governmental sources to the effect that torture continued to be a common practice. The majority of cases, however, are not reported to the authorities due to ignorance, limited means of substantiating the case, mistrust on the part of the victims in institutions or fear of reprisals. A selection of approximately 116 cases, which reportedly occurred between January 1996 and September 1997, is given in the annex to this report.

8. The sources indicated that the most common cases were those occurring in the course of crime investigations. The legal instruments promulgated in recent years, to which the Special Rapporteur will refer below, have not been successful in eliminating the use of torture, which apparently continues to be common among the judicial police forces. In addition, responsibility for cases of torture has often been attributed to the army, as the annex shows. On the pretext of a rise in the crime rate in the country and a social demand for greater public security, the Government introduced a series of legal amendments allowing the armed forces to intervene in areas which pertain to the civil authorities, such as public security and the prosecution of certain offences. As a result, the armed forces intervene in the investigation and prosecution of offences such as terrorism, smuggling and illegal trafficking in persons, arms and drugs, despite the fact that article 21 of the Constitution provides that the investigation and prosecution of offences is the province of the Public Prosecution Department.

9. It was reported that in order to justify this role of the armed forces, it has been argued that they assist the civil authorities, although in actual fact they are not subordinate to the latter. They undertake duties on their own account which are the province of the Public Prosecutor, such as arresting and interrogating suspects, carrying out searches without a warrant and setting up checkpoints on roads and other ways of communication on the pretext of looking for drugs or weapons. This is contrary to article 129 of the Constitution, whereby in peacetime no military authority may engage in duties other than those which are directly related to military discipline. However, in March 1996 the Supreme Court when examining a remedy of unconstitutionality filed with regard to the army's participation in public security activities, ruled that the army could, if expressly requested by the civil authorities,

participate in civil actions in favour of public security in situations which did not require the suspension of guarantees, provided that the Constitution and the laws were strictly observed.

10. In other cases, arrests followed by interrogation under torture are carried out by unidentified individuals, who are often masked and who take the victims to places they are unable to identify because they have been blindfolded. However, from the type of the interrogation and behaviour, detainees are led to suspect that their captors are linked to the security forces. The sources also mentioned cases in which civilians acted alongside public agents or with their acquiescence (white guards, hired gunmen, etc.), particularly in the State of Chiapas.

11. The Special Rapporteur also received information, including direct testimonies, concerning attacks on street children. A non-governmental organization working with street children in the Federal District reported that between April 1996 and August 1997, 27 attacks had been documented on street children and young people and on educators working with them; these attacks had been carried out in the Observatorio subway station area by members of the police force. Twelve of the attacks consisted of beatings, while eight involved threats and two sexual harassment and/or abuse. These abuses apparently took place either as part of action to oust the street children from a specific area of the city in order to improve public safety, or in the course of crime investigations. In 19 of the cases complaints were lodged with the Public Prosecutor's Office and the National Human Rights Commission (CNDH). By August 1997 no investigation had yet been completed. The Special Rapporteur also received information that 14 children had been beaten and threatened with death on 7 December 1997 by 2 policemen and 2 civilians in the Observatorio area of the Federal District (DF).

12. As can be seen from the annex, the most commonly used methods of torture are indiscriminate beatings, attempted suffocation by placing a plastic bag over the victim's head or keeping his head under water, pouring large quantities of liquid into the mouth and nose, hanging by the neck or limbs and applying electric shocks. In the majority of the cases reported, the victims had their hands tied and were blindfolded during the torture and interrogation, which meant that they were unable to identify their whereabouts. The torture was accompanied by threats, including death threats, against the victim and his family.

13. The Special Rapporteur received a considerable amount of information on torture practised in politically motivated situations, for example, on peasant and social activists or militants of opposition parties, and particularly on persons detained in conflict zones, usually rural areas, in the course of combined police and military operations or simply military actions against subversive groups. Many allegations were made of torture of this nature in the States of Guerrero and Oaxaca, at any rate in 1996 and 1997.

14. It was reported that since the People's Revolutionary Army (EPR) had appeared in the State of Guerrero in June 1996, combined police and military operations had been intensified, with weapons searches and a hunt for suspected EPR members. These operations have led to serious abuses of

authority, torture, arbitrary detentions, etc. against the inhabitants of peasant and indigenous communities in areas close to where the EPR has been operating.

15. Generally speaking, victims are arrested without a warrant during round-ups, at road checkpoints or in their homes; then they are taken in unmarked military vehicles or vans, blindfolded and tied up, to places they cannot identify, where they are tortured. It is frequently members of the State Judicial Police and the army working together who carry out the arrests. The interrogations to which victims are subjected include questions on their alleged participation in ambushes against the army, possession of weapons, participation in EPR meetings, etc. The majority of those arrested are subsequently released under threat of death to them and their families if they report what has happened. Those who are held in detention longer are first obliged to sign blank statements which they are unable to read, without the assistance of an interpreter or a lawyer. 1/

16. One example is the incidents which took place around 3 April 1997 in the indigenous communities of San Miguel Ahuelicán and Alpuyecancingo, Municipality of Ahuacuotzingo, Guerrero. On that date a large group of men of the 35th military zone came in military vehicles to the Nahuatl community of San Miguel Ahuelicán looking for people who had participated in an attack on the army a few days earlier. The soldiers forced their way into houses demanding that weapons should be given up and asking for the attackers. In the course of the house searches, many belongings were destroyed or stolen. Although no warrant issued by a competent authority was shown, several people were arrested and taken to the municipal police station, including Emilio Ojéndiz Morales, José Cervantes Márquez, Juan Paulino Cervantes, José Abelino Cervantes, aged 17, José Abelino Pérez, Pascual Rodriguez Cervantes and the representative of the municipality (civil authority), Juan Salvador Abelino. Over the next few hours they were subjected to torture, including beatings and attempted suffocation with plastic bags while they had their hands tied behind their backs. They received death threats to their families, and were placed bound hand and foot under vehicles with the engines running to make them think they were about to be run over. Juan Salvador Abelino was forced to drink large quantities of water and was then hit in the stomach and jumped on. Finally he was accused of being in possession of poppy seed and of a firearm (according to the victim an old rifle inherited from his father and not used only by the army); he was brought before the Public Prosecutor and then taken to the Chilpancingo Social Rehabilitation Centre (CERESO). The Special Rapporteur was able to talk to him and to José Cervantes Márquez, who had undergone similar treatment, when he visited Chilpancingo prison. They said that they had signed a statement before the Public Prosecutor without knowing what it said since they could not read.

17. On 6 April 1997 soldiers came to the community of Alpoyecatzingo and ordered the community representative to gather all the inhabitants and inform them of the attack which had been made on the army. Several houses were searched and some money and belongings were stolen. One person, Abelino Tapia Morales, aged 70, was arrested. During the two days he remained in the hands

of the military he was beaten and subjected to other forms of torture, such as being suspended over a cliff and threatened with being dropped if he did not admit the whereabouts of the weapons and attackers.

18. In November 1997, the National Human Rights Commission (CNDH) sent the Military Procurator recommendation 100/97 concerning the participation of the army in human rights violations in the state of Guerrero. With reference to cases of arbitrary arrest, injury and torture, the Commission concluded:

> "1. Evidence has been found of acts of arbitrary arrest, and of injuries suffered by the victims, as recorded in the reports by medical experts registered with this national body.
>
> 2. This national body considers, in respect of Mr. Juan Leonor Bello, Mr. José Santiago Carranza, Mr. Faustino Martínez Basurto, 2/ Mr. Paulino Padilla Rosario and the minor Antonio Padilla Gatica, that such methods were used when they were arrested and received injuries, particularly when they were blindfolded, their hands were tied and they were interrogated under threats and intimidation in order to obtain information about militants of the so-called People's Revolutionary Army. Such incidents may well be considered acts of torture, which should be investigated.
>
> 3. In view of the above, although the facts recorded in the reports do not reliably prove the specific responsibility of any public authority or servant, the Armed Forces should in conjunction with the federal and state authorities undertake a full investigation of each of these incidents". 3/

The Commission therefore recommended that the Military Procurator should initiate the appropriate preliminary investigations and, if responsibility was ascertained, bring charges and carry out any orders of arrest which might be issued.

19. The Special Rapporteur also received information concerning many cases of torture in the state of Oaxaca, where the EPR also appeared in 1996 and carried out violent raids, resulting in an increased military presence, the setting up of checkpoints and numerous arrests. In the Loxicha region of Oaxaca, these events coincided with popular demands for improved public services and infrastructure. Incidents took place, as on 25 September 1996 when a major operation was launched in the Loxicha region, in which members of the preventive police, the State Judicial Police, the Federal Judicial Police and the army took part, following an armed raid by the EPR at the end of August. Several persons were arrested in the villages of San Agustín Loxicha and San Francisco Loxicha, including members of the municipal authority. They included Isaías Ambrosio Ambrosio, Manuel Nicandro Ambrosio, José Agustín Luna Valencia and Fortino Enríquez Fernández, Emiliano José Martínez and Luis José Martínez. Also as a result of the EPR raid in late August 1996, a number of persons were arrested in and around the town of Huatulco, including Urbano Ruiz Cruz, Juan Díaz Gómez, Régulo Ramírez Matías, Estanislao Martínez Santiago, Cirilo Ambrosio Antonio, Ricardo Martínez Enríquez and Francisco Valencia Valencia. On 7 November a new joint operation took place similar to

earlier operations in the Loxicha region. The following persons were arrested and tortured: Genaro López Ruiz, Prisciliano Enríquez Luna, Virgilio Cruz Luna, Roberto Antonio Juárez and Gaudencio García Martínez.

20. According to the reports received by the Special Rapporteur, the incidents had the following features in common. There is no record of any judicial warrant being presented at the time of the arrests, while in many cases excessive and unnecessary violence was used; there were house searches, violent evictions, theft and threats, creating a climate of fear among the population. In nearly all cases, there were constant threats of ill-treatment, in some cases death threats, and simulated executions (by shooting or by dropping from an aircraft). Widespread use was made of physical torture on detainees, including beatings, electric shocks and deprivation of food. Many acts of torture were carried out in order to obtain a self-incriminating statement of EPR membership and to incriminate other persons and neighbours. In several cases those arrested were forced to sign blank pages or pre-written statements, even when they could not read or write. There is no report that monolingual Zapotec detainees had access to an interpreter or person of confidence during proceedings.

21. The Special Rapporteur also received information that members of many non-governmental human rights organizations in different states were being subjected to harassment by unidentified individuals, in the form of telephone calls threatening them and their families, anonymous threatening letters, office searches, slander campaigns in the media, etc. Owing to the anonymous nature of this type of harassment, it is difficult for the organizations to identify those responsible but on numerous occasions they strongly suspect the involvement of the authorities. In his reports for 1996 and 1997, the Special Rapporteur on extrajudicial, summary or arbitrary executions said that he had received information on harassment, death threats and intimidation against human rights defenders, leaders of indigenous organizations and members of political parties, particularly the Democratic Revolution Party (PRD) and religious communities, and had sent a series of urgent appeals to the Government asking it to take the necessary measures to protect the right to life and physical integrity of several of the above. In the course of his visit the Special Rapporteur on the question of torture received evidence from victims of this type of harassment, some cases of which had involved torture or ill-treatment.

Information furnished by the authorities

22. There was unanimity among the authorities interviewed by the Special Rapporteur in the Federal District in stating that in recent years cases of torture had declined in Mexico, largely as the result of the new legislation introduced precisely to eradicate the practice. The Minister of the Interior said that significant progress had been made in recent years as a result of the Federal Act for the Prevention and Punishment of Torture and the establishment of the human rights commissions. Although torture was not a generalized practice, there were isolated cases which should not go unpunished, and for this reason the Government was trying to introduce programmes for improving the human rights culture in Mexico, not only for the general public but also for the police forces. Other executive authorities such as the Attorney-General of the Republic (PGR) expressed a similar view,

while reiterating the authorities' wish to eradicate a practice which had been so prevalent in previous decades, and commenting on the positive effect of constantly challenging it and exposing it before public opinion.

23. In a report of October 1997, the National Human Rights Commission (CNDH) stated that since its inception in June 1990 it had received 2,109 complaints of torture, but that the number of complaints of torture received had been decreasing from year to year, which tended to indicate that the practice itself had also decreased. 4/ There were no overall figures which combined CNDH data with those of state commissions. For the period between May 1996 and May 1997, the CNDH noted that it had received 46 complaints, only 25 of which were admissible. The remainder were referred to the state commissions because they concerned non-federal public servants or because the CNDH declared itself incompetent, on the grounds that the judiciary had already assessed the alleged cases of torture. The public servants allegedly responsible for the acts of torture contained in the above 25 complaints belonged to the following offices and bodies: Office of the Attorney-General of the Republic, 13 cases; Ministry of Defence, 5; Office of the Government Procurator of the Federal District, offices of the Government Procurators of the states of Chiapas, Guerrero, Nayarit, San Luis Potosí and Tamaulipas, 1 case each; and the Secretariat for Public Security of the Federal District, the General Directorate of Public Security of the state of Tabasco and the Office of the Secretary-General of the Government of the state of Guerrero, 1 case. 5/

24. The President of the Human Rights Commission of the Federal District (CDHDF) said that up to five years ago torture had undoubtedly been the number one form of abuse of power in the whole country and that confessions used to be extracted under torture, and torture was used as a punishment in the prisons as a matter of routine. That situation, however, had changed. The number of cases and thus of complaints had fallen significantly throughout the country, although there were differences between the states; the situation was not the same in the Federal District as in Guerrero, Oaxaca or Aguascalientes. This factor, he said, should be taken into account in any objective diagnosis of the situation. In the Federal District the decrease had been noteworthy. Even in the prisons cases of torture were sporadic. Since its inception in 1993, the CDHDF had received 56 complaints of torture, which had gone down to thirty-first place in the table of complaints. As a follow-up to those complaints, the Commission had issued 10 recommendations in cases where torture had been proved and 34 preliminary investigations had been initiated.

25. Non-governmental sources indicated that the drop in the number of cases registered by the CNDH were due in part to the fact that 32 local human rights commissions had been established since 1992, one for each state, plus the Federal District Commission, which had led to a genuine decrease in the total number of complaints submitted to CNDH and therefore in complaints of torture as a whole. Moreover, not all the cases reported to CNDH in which torture had occurred were classified as such. Sometimes the recommendation was presented under the heading of injuries, abuse of authority, or, when the complaint had been made from inside a prison, the CNDH classified its recommendation as a

violation of prisoners' rights. Lastly, the sources noted that threats of reprisals against victims of torture, should they denounce the fact, continued to be common practice.

26. Various authorities also mentioned the importance of improving the culture of human rights and the protection of the victims of violations and referred to their efforts to do so in the country in general and among public servants and members of the judiciary in particular. An effort was being made to organize training courses and to introduce human rights subjects into police academy curricula. The Office of the Attorney-General of the Republic (PGR) also reported that measures were being taken to purge the office of all persons, whether working for the police or for the Public Prosecutor's Office, involved in corrupt practices or human rights violations. It reported that there was a service within the Attorney-General's Office which monitored its members' compliance with human rights, namely the General Directorate of Human Rights, and that they were trying to strengthen this service. In addition, the Ministry of the Interior had drawn up a national census of police and former police staff, which was fully operational, with a view to preventing a policeman sanctioned in one unit from being cleared in another, as had been the case until quite recently.

27. During his visit to the state of Guerrero, the Special Rapporteur interviewed local authorities, who made the following comments.

28. The Government Secretary-General said that in Guerrero the practice of torture was not traditional and that efforts were being made to ensure that it did not become established in the state, especially by introducing training programmes for police units. The State Government Procurator noted that during the past year the judicial police in its entirety (approximately 450 persons) had been purged and that the conditions for joining it had been made stricter in order to obviate problems such as corruption. A programme had also been introduced for the training of police staff and experts and the number of procurators' offices in the state would be increased. Where employees of the Public Prosecutor's Office were concerned, he said that in the past year approximately 85 per cent had been purged, the majority for corruption; generally speaking, the agencies of the Public Prosecutor's Office were better staffed and a training programme had been initiated for its employees, as it was recognized that their training was generally inadequate.

29. The Coordinator of the State Congress said that they were not unaware of the existence of human rights violations and that the population complained about the strong military presence and the use of checkpoints, for example. The army's action, however, was justified by the situation in the state and the need to deal with the EPR, and was not irregular provided that the freedom of individuals and their physical integrity were respected. The President of the Human Rights Commission of the state of Guerrero for his part said that since the start of 1997 he had received 14 complaints of torture, on 5 of which he had issued recommendations. 6/ Generally speaking, following the entry into force of the Federal Act for the Prevention and Punishment of Torture and the establishment of the human rights commissions, the practice of torture had decreased.

II. THE PROTECTION OF DETAINEES AGAINST TORTURE: LEGISLATION AND PRACTICE

30. According to the information received, most cases of torture occurred immediately after the victim's arrest. Article 16 of the Constitution states that "no suspect may be detained by the Public Prosecutor's Office for more than 48 hours, during which time his release shall be ordered or he shall be referred to the judicial authority; this period may be doubled in cases regarded by the law as organized crime. Any abuse of the foregoing shall be sanctioned by criminal law".

31. The information received from non-governmental sources indicates that torture is frequently used to obtain a statement from a detainee that can constitute a significant piece of evidence in the current criminal investigation. It is therefore important to attempt to determine what provisions exist in law to prevent a detainee from being obliged to make a statement against his or her will, and what importance might be attached to such a statement by procedural legislation and practice.

32. Article 20 of the Constitution provides that, as of right, the accused "may not be compelled to testify. Any incommunication, intimidation or torture is prohibited and shall be punished by criminal law. A confession made before any authority other than the Public Prosecutor's Office or the judge, or made before them but without the assistance of counsel, shall have no probative value". In line with this constitutional principle, article 8 of the 1991 Federal Act for the Prevention and Punishment of Torture, which applies to public servants of the Federation and of the Federal District, states that no confession or information obtained by torture may be cited as evidence, while article 9 states that no confession made to a police authority or to the Public Prosecutor's Office or a court authority in the absence of the accused's defence counsel or other person of confidence and, if necessary, an interpreter, shall be devoid of probative value. According to information received, all the state laws on torture (all the states with the exception of Puebla and Tlaxcala have such laws) rule out the validity of confessions obtained under torture.

33. There are numerous other legal provisions to the same effect. Thus article 3 of the Federal Code of Penal Procedure stipulates that "It is strictly prohibited for the Federal Judicial Police to take statements from suspects or to detain any person, except in cases of flagrante delicto, without written instructions from the Public Prosecutor's Office, a judge or a court". According to article 287 of the Code, "The findings of preliminary inquiries carried out by the Federal Judicial Police or the local police shall have the value of testimony requiring, in order to be taken into account in the committal order, to be supplemented by other evidence resulting from inquiries conducted by the Public Prosecutor's Office; but in no event may the former findings be taken as a confession". Article 289 of the Federal District Code of Penal Procedure stipulates that the authorities shall in no event and for no reason use incommunication, intimidation or torture in order to obtain statements from a suspect or for any other purpose. In addition, according to article 160 of the Federal Amparo (enforcement of constitutional rights) Act, in criminal trials, sentencing based on a confession by the

accused is held to contravene the laws of procedure if the accused was held incommunicado before making the confession or if the statement was obtained by means of threats or any other form of coercion.

34. This legislation, which results largely from reforms carried out between 1990 and 1994, provides the following safeguards: security forces may not take statements from suspects, being limited to reports, while statements may be made only before the Public Prosecutor's Office or a judge; furthermore, a confession before the Public Prosecutor's Office or a judicial authority has no probative value if it was made in the absence of the accused's defence counsel or a person of confidence.

35. According to several authorities, these measures constituted a major step forward as far as efforts to combat torture in Mexico were concerned. In the opinion of the Attorney-General of the Republic, another important step forward was taken with the entry into force, in late 1996, of the Federal Organized Crime Act, under which a person confessing to an offence may at the same time invoke the Act, which provides, in particular, for protection for the individual and family, the possibility of indictment on less serious charges and detention in medium rather than maximum security institutions, provided that the information given assists the course of justice.

36. The President of the Federal District Human Rights Commission (CDHDF) reported that prior to the 1991 Act judicial practice had been shameful: if a suspect had made two contradictory statements, it was the first - i.e. the one made to the police with no defence counsel present - that took precedence. The 1991 Act inverted the burden of proof, insofar as the Public Prosecutor's Office has to prove that a defence counsel was present, a statement made to the police has no validity as a confession and any confession not made in the presence of a defence counsel is null and void. Any statement made to the Public Prosecutor's Office or a judge without a lawyer present is null and void. When the Rapporteur said that he had received allegations that judges continued to admit the first statement, the President of the CDHDF replied that that was not the case in the Federal District and that he doubted very much whether it applied in the rest of the country.

37. Non-governmental sources expressed great concern at the role of lawyers in relation to detainees' statements to the Public Prosecutor's Office. They suggested that, while the legislator's intention may have been to eliminate torture by ensuring that the detainee had legal advice and was not coerced when making a statement, reality was very different. For 48 hours a detainee is to all intents and purposes at the disposal of the police and the Public Prosecutor's Office. In the majority of cases detainees are not permitted to communicate with anybody, not even a lawyer, and even if a member of the family is located there is not enough time to find a lawyer. Although in theory the detainee may have access to a lawyer at any time, in practice the lawyer only appears when the detainee is about to make a statement to the Public Prosecutor's Office, which means that they have little opportunity to confer and, generally speaking, the lawyer's contribution to the construction of an effective and adequate defence is practically nil. This is felt to be particularly serious because inactivity on defence counsel's part is not viewed, in court practice, as sufficient grounds for a retrial, nor is it seen as a violation of the rights of the accused, so that amparo does not apply.

38. This inadequacy on the part of counsel should be viewed against a background in which, as various authorities indicated, the great majority of those tried in Mexico are people of very limited resources, who for reasons such as lack of means, ignorance or the fact that they live in remote areas, are unable to engage a lawyer of their own choice and have no alternative but to rely on a public defender. However, as the authorities themselves pointed out, public defenders are poorly qualified, extremely badly paid and overworked, so that it is virtually impossible for them to ensure an adequate defence. It is also not uncommon to find that those present at the time a statement is being made to the Public Prosecutor's Office are not public defenders but persons "of confidence", although in practice they may not be of confidence at all for the detainee, who frequently does not even know them. The President of the CDHDF suggested that the mere presence of the defender is positive, not because it ensures an effective defence but as a means of preventing torture. This opinion is not shared by non-governmental sectors, who maintain that the defender usually takes no action even when confronted with a case of torture.

39. As regards the probative value of a confession, non-governmental sources indicated that recent judicial practice had not demonstrated much willingness to deny the validity of confessions and that, despite it being unlawful, certain judges continued to view statements obtained under torture as valid, on the grounds that there was no proof that the injuries presented by the detainee, even confirmed by a medical certificate, were the result of torture, or that they had been inflicted with the aim of extracting a confession. In this sense the 1991 Act cannot be said to have shifted the burden of proof, which continues to fall on the victim. Penal procedure provides no way of rescinding a confession obtained under torture since this necessitates an inquiry and a different procedure.

40. Other arguments used by judges include the view, for instance, that torture could not have taken place because the injuries presented took less than 15 days to heal, which meant that they were not serious (torture being defined in law as serious suffering or pain); or the view that one confession corroborates another, so that it is sufficient to obtain a second confession from one of those suspected of committing an offence in order to indict a given individual, even when there is no other proof. Sources also said that, although the police may not take statements from detainees, it is possible for them to obtain one by force and subsequently state in their report that the detainee confessed at the time of arrest; the police report may then be taken by the judge as proof of guilt. Judicial practice is very important, as it is ultimately the judges who decide whether there is evidence of torture and whether proofs obtained illegally are valid or invalid.

41. The actions of the Public Prosecutor's Office are reportedly deemed by judges to have full probative value, that is to say, judges consider it fully reliable, not only in determining whether the accused should be tried, but in handing down a sentence, since the Public Prosecutor's Office is the "representative of society" and presumed unfailingly to act in good faith. It is for this reason that a statement made to the Public Prosecutor's Office carries so much weight in judicial proceedings. A statement by the accused, even one made under duress, carries such weight that it is difficult to refute

on other grounds given prevailing attitudes. In effect, the presence of a public defender does no more than lend a veneer of legality to a statement that is not strictly valid in law.

42. According to a study on confessions and torture published by the Mexican Commission for the Defence and Promotion of Human Rights, "Time and again documentary evidence is demanded to show that a confession was obtained under duress, which means in practice that if a forensic physician does not certify in writing that the accused was beaten by the Judicial Police and does not explicitly state that such beatings and abuse were carried out with the deliberate aim of extracting a confession, the court will refuse to acknowledge that the confession was forced. Clearly no forensic physician dares to do this. (...) A confession by law merely has the value of circumstantial evidence and cannot be taken into account if it is not supported by other evidence. Courts have cleverly overcome the procedural problems this raises by saying that a confession made by an accomplice or collaborator - even one obtained under duress - constitutes evidence corroborating the confession made by the first accused - even though that, too, may be invalid. In other words, if the police manage to obtain mutually incriminating confessions from two individuals, even though the statements may be the result of violence, the courts are prepared to accept them as clear proof, declaring that one confirms the other and that consequently the remedy of amparo cannot be sought". 7/

43. It should also be borne in mind that, generally speaking, not only judges but also lawyers, the Public Prosecutor's Office and the Judicial Police itself are overloaded with work, which may explain the tendency to rely on confessions as a way of clearing up cases rapidly. According to other sources there are also problems of corruption and influence-peddling involving the Public Prosecutor's Office, judges and public defenders, since, for the Public Prosecutor's Office and judges, accumulating convictions is a way of speeding up promotion. At the same time private lawyers often do not report torture for fear of losing their job or their social position. Replying to complaints that agents of the Public Prosecutor's Office frequently turned a blind eye to or took no action over acts of torture by the Judicial Police, the Attorney-General admitted that he had come across several such cases. He pointed out, however, that, according to the new criminal standards set forth in the 1991 Act, any agent of the Public Prosecutor's Office who acquiesces in or fails to report such acts can also be held responsible, and there have been cases of agents being prosecuted for these reasons.

44. Another problem that was raised is that of the role of the forensic physicians responsible for examining detainees. In this regard article 7 of the Federal Act on Torture provides that, "Any detainee or accused person shall, immediately upon request, be examined by a forensic medical expert and if none is available, or if the detainee requests it in addition, by a doctor of his or her choice. The examining physician is required immediately to issue the appropriate certificate and if it is noted that pain or suffering such as falls under the definition of torture has been inflicted, this shall be communicated to the competent authorities. The request for medical examination may be made by the detainee's or accused person's defence counsel or by a third party". In addition, article 271 of the Federal District Code of Penal Procedure stipulates that any public prosecutor apprised of a

criminal act shall immediately have the presumed perpetrator examined by forensic physicians in order to obtain an interim opinion on his or her mental and physical state.

45. Non-governmental sources referred to the poor qualifications of forensic physicians and said that the medical examinations carried out on Judicial Police premises (cells) were usually perfunctory and did not adequately reflect detainees' true physical state and even less their mental state. Moreover, in many areas of the country there is no guarantee that a doctor is to be found on police premises. The sources said that the forensic physicians responsible for making a provisional assessment of injuries - necessary in order to prove the offence of torture - were not independent enough to carry out their duty according to the law. They are public servants in the employ of various institutions such as, in the Federal District, the Directorate General of Health Services of the Federal District Department and the Directorate General of Expert Services of the Attorney-General's Office. The same applies to physicians in prisons and social rehabilitation centres. The medical experts employed by the High Court of the Federal District normally act as expert arbitrators in case of dispute when the trial is already well advanced and it is extremely difficult to give a true assessment of the magnitude of the injuries inflicted. Thus a web of complicity is created among the physicians themselves owing to their accountability to their immediate superior. The sources stated that, in practice, at least in the Federal District, they knew of no preliminary investigation of torture being initiated as a result of a medical report. The President of the CDHDF said that the Commission had requested disciplinary action in cases where injuries to detainees were not reported, and that such situations arose through lack of training and negligence.

III. TORTURE VICTIMS' RIGHT TO EFFECTIVE REMEDY

46. Article 22 of the Mexican Constitution prohibits punishments by mutilation, flogging, beating with sticks and torture of any kind. In addition, article 3 of the Federal Act for the Prevention and Punishment of Torture states that "The offence of torture is committed by a public official who, by virtue of his office, inflicts on another person severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession or punishing him for an act he has committed or is suspected of having committed, or coercing him into acting or refraining from acting in a particular manner". The Act also provides for prison sentences of between 3 and 12 years for anyone committing the offence of torture, as well as a fine and disqualification from public office, post or assignment. Such penalties are also applicable to a public servant who incites, compels or authorizes a third party or makes use of a third party or fails to prevent such pain or suffering from being inflicted on a person in his custody. Furthermore, release on parole is precluded for those tried for torture. According to information received, the definition of torture used in the various state laws on torture conforms with that used in federal law.

47. The National Human Rights Commission (CNDH) transmitted to the Rapporteur a draft amendment to the Federal Act for the Prevention and

Punishment of Torture, by which the Commission proposed adding a paragraph stating that, for the offence of torture, criminal proceedings and punishment under criminal law are imprescriptible.

48. A person claiming to have been the victim of torture may of course lodge a complaint, although this is inherently complicated, since the person has to relive the events and may run into further problems. Two main difficulties immediately arise. The first, as already mentioned, is that the person must provide proof. The second stems from the fact that the authority responsible for conducting the investigation and initiating criminal proceedings is the Public Prosecutor's Office, that is to say the very authority in whose jurisdiction the events took place. Thus in many cases those investigating know the person or persons accused of the deeds.

49. Since the creation of the human rights commissions,8/ non-judicial bodies which are independent of the Public Prosecutor's Office, a large proportion of complaints concerning human rights violations, and particularly torture, have been channelled through them. Their nature is such that the victims of alleged violations, or their representatives, are much more inclined to turn to them than to go directly to the Public Prosecutor's Office. In fact it was the serious shortcomings to be found in the bodies responsible for administering justice, and the inefficiency of the mechanisms prescribed in law for the protection of fundamental rights, that led to the establishment of the CNDH and the state commissions, and they have come to play a vital role in the investigation of suspected violations. Indeed, according to non-governmental sources, the human rights commissions have become indispensable because, without the recommendations they make on the basis of their investigations of allegations, the other authorities take no action, in spite of the fact that the Public Prosecutor's Office is obliged to launch a preliminary investigation on receipt of an allegation.

50. According to non-governmental sources, however, the human rights commissions do not always have staff who are trained to conduct full investigations into events requiring different professional skills. Nevertheless, in those cases where the commissions do request the authorities to implement precautionary measures in order to prevent possible harm to torture victims, their intervention has helped to foster respect for integrity of the person.

51. Non-governmental sources also expressed criticism of the human rights commissions over the fact that it is up to the complainant to produce evidence that will convince them that torture took place. In at least some of the commissions, if the complainant ceases to press his or her case the file is closed on the grounds of "lack of interest by the complainant". Yet in many such cases this "lack of interest" is due to the fact that threats have been made against the victims in order to make them drop their complaint. The sources also suggested that the commissions needed to take a more active and impartial approach to the authorities whose actions they were supposed to be investigating.

52. In addition to the difficulties in the way of investigations within the commissions, stemming chiefly from a lack of staff, once a recommendation has been made showing that human rights violations, especially torture, have taken

place, the problem then is what action the competent authorities will take - in particular the Public Prosecutor's Office, which is responsible for launching the preliminary investigation. The President of the CDHDF, for example, said that his main complaint in this regard was that investigations went on indefinitely, for years even, owing to the fact that the Public Prosecutor's offices were either under-qualified, under-staffed, negligent or even corrupt. He also said that no single investigation of torture had been initiated without a recommendation from the Commission.

53. Non-governmental sources also stated that, for the victims, the preliminary investigation conducted by the Public Prosecutor's Office raised problems, chiefly because they were exposed to threats for having lodged a complaint and because public servants were brought to public notice in a recommendation made by a human rights commission. This frequently leads to victims no longer wanting to confirm their complaint or to give evidence to the investigation.

54. According to the CNDH, there is also a problem with the way the Commission's recommendations are treated by the Attorney-General's Office. In order to overcome this difficulty it has proposed that the criminal procedure should be changed in such a way that the Commission's investigations, which at present are taken simply as evidence, can be accepted as proof by the Public Prosecutor's Office, so that the latter does not need to carry out the whole investigation again. The Attorney-General said that if recommendations were not accepted or there was merely a pretence of compliance, the federal or state legislature should require Government Procurators to explain why the recommendations had not been properly followed up. At present the only recourse open to the human rights commissions when their recommendations are not implemented is to bring the fact to the notice of the public.

55. According to members of the Human Rights Commission of the Chamber of Deputies there is a clear need for legal mechanisms based on the human rights commissions of local and federal legislatures, that would compel or exert effective pressure on authorities that ignored CNDH recommendations. In addition, it should be ensured that the Commission's annual reports are not mere formalities and that they are followed up by a presidential decision enforcing observance of the Commission's recommendations.

56. The Attorney-General of the Republic told the Special Rapporteur that one of his priorities was to speed up the implementation of CNDH recommendations. He said that between 1990 and 1997 his office had received 18 recommendations relating to acts of torture and that 54 individuals had been charged in that connection. Six had been convicted, four of the convictions being subsequently confirmed. 9/ In 10 cases the individuals had been acquitted either by the court or because the detention order against them had been revoked. 10/ One case was still under investigation. In 11 cases the arrest warrant issued had still not yet been executed. In 17 cases the arrest warrant was denied. In four cases the arrest warrant was cancelled under the amparo rules and in two of those cases the decision was confirmed on review. In two cases the arrest warrant was not executed owing to the death of the suspect. One case was awaiting re-arrest. One case was ruled a

non-federal offence which fell within the ordinary jurisdiction of the state of Chihuahua. From this list it can be seen that there are 11 cases in which the procedural position allows continuation.

57. The Government Procurator of the State of Guerrero said that he knew of no cases of torture and that no preliminary investigations were outstanding. Two cases of ill-treatment referred by the State Human Rights Commission (CEDH) were being processed. He also said that he knew of no case of allegations being made against an agent of the Public Prosecutor's Office for irregularities occurring during the taking of a detainee's statement. He also pointed out that the fact that individuals reported violations directly to the human rights commissions and not to the Procurator's offices caused work to be duplicated. As regards recommendations made by the human rights commissions, he confirmed that the whole investigation, including expert testimony, had to be gone through again because the thoroughness of the commissions' investigations could not be relied upon.

58. The President of the CDHDF said that since he had taken office the Commission had issued 10 recommendations regarding torture. This has led to the dismissal of 16 public servants, while 34 had been the subject of preliminary investigations. In the investigations initiated, 11 public servants had been charged and in 23 cases the legal position had yet to be determined.

59. Of the 11 public servants indicted, 2 had obtained amparo from the detention order; in one case the arrest warrant had been denied; 3 were on remand; in 3 cases the arrest warrants had not yet been executed; and 3 had been tried. Of these three one had been acquitted and two convicted; however, neither was in prison since one had obtained amparo and the arrest warrant had been revoked, and the other had escaped. Both sentences were for nine years and three months in prison. The President noted that, although these results might appear meagre, they represented an advance on the situation in 1993, when the CDHDF has been created, since at least the cycle of total impunity that had protected torturers in the past had been broken. He said, however, that so far neither prosecutors nor judges had been willing to condemn acts of torture in the way they deserved.

60. The CNDH informed the Special Rapporteur that, from the time it was established until October 1997, it had issued 166 recommendations regarding acts of torture, as follows: 10 in 1990, 36 in 1991, 45 in 1992, 16 in 1993, 23 in 1994, 14 in 1995, 11 in 1996 and 11 in 1997. Of these, 134 were deemed to have been fully implemented, 24 partially implemented, 5 unsatisfactorily implemented, 1 had not been accepted by the authorities, 3 had been accepted and were at the evidence stage and 1 was being contested.

61. According to a study entitled "Todos los derechos para todos" (All rights for all), carried out by a non-governmental organization, the National Network of Civil Human Rights Organizations, which examined the follow-up to CNDH recommendations, considering that the Commission only issued recommendations when it was sure of the facts and had proof, it might be hoped that at least in those cases there would be no impunity. Nevertheless, there were far fewer public servants against whom criminal proceedings had been initiated as a result of the recommendations than individuals involved in acts

of torture. Thus out of 110 recommendations in which the CNDH established that torture had taken place, 11/ 79 fell under the Federal Act for the Prevention and Punishment of Torture, since Federal authorities were involved. 12/ However, in only 13 out of these 79 cases had criminal proceedings been initiated, and although these 13 recommendations involved 74 public servants, criminal proceedings for torture had been taken against only 31, of whom only 3 had been convicted. 13/

62. Based on those 13 recommendations, criminal proceedings had been initiated for offences other than torture against 17 public servants. In eight of these cases the arrest warrants were denied; with regard to the other nine, the CNDH does not mention in its reports whether arrest warrants were issued. According to the Network, instead of criminal proceedings for torture, proceedings are often initiated for other less serious offences such as abuse of authority, assault and battery, misuse of public position, etc., making it possible for a public servant accused of torture to be released on bail or to receive a more lenient sentence. Altogether, criminal proceedings for offences other than torture were initiated in 28 out of the 110 recommendations studied. For instance, criminal proceedings for abuse of authority and other offences were initiated against 73 public servants. Reportedly, in only 23 of these cases were arrest warrants served.

63. Delays in the investigation of offences present a serious obstacle to the pursuit of justice. According to article 21 of the Constitution, "the decisions of the Public Prosecutor's Office concerning the non-pursuit or abandonment of criminal proceedings may be challenged in the courts in the terms established in law". However, the legislation enacting this provision has not been adopted and thus remains inoperative. Under current legislation there are ways round this difficulty, as when victims invoke the rules of amparo, but these are not entirely satisfactory.

64. Apart from delays, non-governmental sources stated that in relation to human rights violations investigators are generally negligent, that is to say they do not carry out checks that could ascertain the facts or do not take the evidence produced into account, or investigations are wrongly or even fraudulently recorded. In normal practice, there is broad discretion in the application of the law and therefore a great risk exists that investigations will be falsified, carried out using coercion or recorded illegally, ignoring potentially key evidence or taking into account other less important evidence that might slant the investigation in such a way as to affect or benefit a particular person; evidence may even be made intentionally to "disappear".

65. The President of the Human Rights Commission of the State of Guerrero said that the authorities generally accepted the Commission's recommendations but that implementation later stalled for bureaucratic reasons, which meant that they were not fully complied with.

66. Another common problem relates to the legal classification of cases of torture. Even in cases where the human rights commissions have issued recommendations specifying cases of torture, the Public Prosecutor's Office or judges have classified them as assault and battery or abuse of authority, charges which are less serious and carry a much shorter prescription limit. The Attorney-General said that the procurators were expected to register the

charges as torture and not abuse of authority, but that judges might subsequently reclassify the offence as abuse of authority, and did in fact do so on occasion. In this respect the President of the Human Rights Commission of the State of Guerrero said that, as regards the recommendations relating to torture issued by his Commission, the perpetrators had been punished not for the offence of torture but for abuse of authority, and that it was the state Procurator's office that had altered the legal classification.

67. Legal sources reported that relatively few torture cases reached the courts, although the number was increasing. In response to recommendations by the human rights commissions, administrative sanctions were applied, which often satisfied the victims. Taking criminal proceedings further was complicated for them; they were often afraid of possible reprisals and mistrusted judicial institutions. The President of the Court of Justice of the State of Guerrero said that he had not tried a single case of torture since he had taken office in May 1996 and that the severe penalties laid down in law for this type of offence could be a reason why the police were careful to avoid any abuse.

68. The CNDH said that the legislation on compensation was highly deficient and that they were working on draft legislation for submission to the legislature that would improve the current system and establish a compensation fund for the victims of human rights violations. Members of the Human Rights Commission of the Chamber of Deputies said that legislative measures had to be introduced to establish compensation or reparation for victims and that the State should accept subsidiary liability and allocate resources for such compensation.

69. Although all the above refers to civil jurisdiction, there are also torture cases that fall under military jurisdiction. According to article 13 of the Constitution, "Military jurisdiction covers offences against military discipline; however, the military courts shall in no event and for no reason exercise jurisdiction over persons not belonging to the army. If an offence affecting the military involves a civilian, the relevant civil authority shall try the case". According to article 57 of the Code of Military Justice, offences under common or federal law are deemed offences against military discipline when committed by military personnel on active service or in connection with active service. When both military personnel and civilians are involved in such cases, the former shall be tried by the military courts.

70. While the Code of Military Justice does not recognize the offence of torture, 14/ it does stipulate that when a member of the military behaves in a manner not covered by the Code, and does so while on active service or in connection with active service, the relevant federal laws apply in addition. According to the Military Procurator, this is what happens in cases of torture, which are tried by the military authority according to the terms of the 1991 Federal Act. With regard to the complaints received by the Special Rapporteur concerning military personnel involved in cases of torture, for example in the State of Guerrero, the Procurator said that the Ministry of Defence did everything possible to ensure that such behaviour did not occur and, if it did, to ensure that it was punished with the full force of the law. Referring to two recommendations received from the CNDH in the last year, he

pointed out that they were being fully implemented. He had no information regarding the implementation of recommendations received in previous years.

IV. CONCLUSIONS AND RECOMMENDATIONS

71. The Special Rapporteur would like to acknowledge with appreciation the cooperation extended by the Government of Mexico in facilitating access to most of the authorities whom he sought to meet from the executive, legislative and judicial branches, be it at the federal or state level. The only substantial omission was in the refusal of the Minister of Defence or any senior military officer involved in operational command to meet him. The time he spent with the Military Procurator General, who confined himself to explaining how in general the military justice system is supposed to work, could not compensate for a discussion of real practice on the ground. Similarly, he expresses his deep gratitude to all the non-governmental organizations (NGOs) who both provided him with well-prepared information and organized extensive witness testimony.

72. Mexico is a complex and sophisticated country and the brief mission did not permit the Special Rapporteur to explore thoroughly the institutional diversity of a federal State consisting of a federal and 32 state jurisdictions, as well as the jurisdiction of the Federal District which includes the capital city. In addition, apart from the applicability of federal and/or state law in any given incident, military law may also play the operative role where military personnel are involved.

73. Moreover, now that competitive politics have led to a breach in the monopoly of power exercised for several decades by the Institutional Revolutionary Party (Partido Revolucionario Institutional, PRI), the country is in a delicate period of transition, characterized by more diffuse centres of authority and a more open polity, in which public criticism of official behaviour thrives particularly through a vibrant non-governmental sector and a lively, albeit not always factually reliable press. The Government has become much more open than had been the case in previous decades to international interest in the country, as evidenced by the visit of the Special Rapporteur and that of the Inter-American Commission on Human Rights of the Organization of American States in 1996.

74. Parallel with these political developments, there have been major economic developments of a structural nature. Partly as a result of the establishment of the North American Free Trade Association, a hitherto tightly protected economy is having to adjust to external competition. This adjustment was felt by many to have led to increases in unemployment with its attendant financial and social insecurity, which provides fertile ground for political movements to gain support and insurrectionary activities to reappear, though, at least as far as could be ascertained in the State of Guerrero, where there had been no armed action on the part of the insurgents for some eight months before the visit, there was a tendency to exaggerate the nature of the threat to social order.

75. The picture is also complicated by the existence of a substantial drug-production and -trafficking problem, including in areas where armed political activity has manifested itself. An intricate scenario develops in

which poor peasants grow and sell plants from which drugs can be manufactured; armed groups gain political support among the same population, perhaps benefiting financially from the trade; the security forces move on both fronts, often using suspected drug activity as a means of destabilizing a population suspected of harbouring guerrillas; and members of the security forces of even the highest rank, as well as other officials of the different branches of Government, become corrupted by and enmeshed in the criminal proceeds of the drug trade.

76. In general, even outside areas of drug-related crime or politically motivated violence, there is a widespread perception in the country that corruption is rife in the law enforcement authorities and in the authorities responsible for the administration of justice. That corruption is perceived as being both financial and political.

77. Finally, an important element of the context, is a public sense of insecurity owing to common crime which, as in many countries around the world, has increased rapidly in recent years in tandem with economic and political developments. The affected parts of the public demand firm official action. Managing such problems would be a substantial challenge to any Government. Yet they must be managed without resort to criminal methods such as murder, enforced disappearance and torture. Indeed, to their credit, no one in authority whom the Special Rapporteur met suggested otherwise. That is the perspective in which the specific conclusions and recommendations that follow should be read.

78. Torture and similar ill-treatment are frequent occurrences in many parts of Mexico, although the information received by the Special Rapporteur would not permit him to conclude that it is systematically practised in all parts of the country.

79. Torture is inflicted mainly for the purposes of eliciting confessions or information. Sometimes, it is attendant on brutally executed arrests. Perpetrators may be federal or state police officials, preventive or judicial, and military personnel where these are involved in law enforcement activity. Victims may be common criminal suspects or suspected of violent politically motivated crime, who may also be or be treated as being involved in drug-related crime.

80. It continues to happen despite the fact that Mexico has in place an important array of legal safeguards that should make torture a very rare event. These include a short period of detention before being brought before an agent of the Public Prosecutor's Office; a short period of detention before being required to make a statement before a judge; access to a private lawyer or a public defender (defensor de oficio) who has to be present when a statement is made to an agent of the Public Prosecutor's Office and without whom the statement will have no validity and access to medical examination. As far as the Special Rapporteur has been able to determine, the following factors seem to prevent the safeguards being as effective as might have been expected. When the police, having questioned a suspect and elicited a promise of a confession before a Public Prosecution official bring the individual

before that official, they may, if the individual refuses to make the expected statement, take him or her back into their unsupervised custody. This means that the person is in a totally vulnerable and defenceless position.

81. In the absence of a private lawyer the public defender appears only to be required to be present at the stage of making the statement and does not seem to have the right (or to exercise the right) to follow the person if he/she is returned to police custody. Moreover, there was general agreement that the public defenders are underqualified, extremely poorly paid, and have virtually no status vis-à-vis the other participants in the process. Often, victims were unaware that one of the persons around them was in fact a defender, supposedly on his/her side. In brief, the public defender cannot be relied on to defend. Private lawyers are generally only available to those with the resources to pay for them and access even to them may be difficult until the detainee has appeared before a judge, by which time a valid declaration may have been made before an agent of the Public Prosecutor's Office. Most of those who come into contact with the justice system have no such resources. Moreover, in extensive areas of the country private lawyers are few and far between.

82. Public Prosecution officials play a pivotal role and many clearly acquiesce to torture, perhaps because they identify with the goals of the police. Corruption may also be a factor, as evidenced by Guerrero's dismissal of 85 per cent of the corps of the state's prosecutors. Of particular note is the willingness of prosecutors to return detainees to police custody if an unsatisfactory declaration is made and the fact that no prosecutor has apparently been prosecuted and convicted for commission of or collusion in torture, despite the existence of recommendations of human rights commissions that such prosecutions be undertaken. Indeed, the Public Prosecutor's Office rarely prosecutes police in such cases, again even if recommended by a human rights commission. The few prosecutions that have been carried out have been initiated mainly in response to recommendations of human rights commissions rather than directly by the Public Prosecutor's Office itself.

83. Many doctors called on to examine detainees seem willing to make perfunctory examinations or issue misleading reports. This is partly explicable by the lack of independence of the doctors, most of whom are in the in the employment of the Prosecutor's Office.

84. The Special Rapporteur received information indicating that the arrival or even threatened arrival of officials of state or federal human rights commissions would lead to the halting of torture and sometimes even to release. Such commissions had issued findings in a number of cases concluding that torture had occurred and making recommendations for the prosecution of those responsible.

85. On the other hand, commissions can only be contacted if someone knows that a person has been detained and knows where to go (often this is an NGO, which in turn will approach the commission). Some commissions seem more diligent than others and there is similar variation among officials, including medical personnel, within a commission. There is also an unexplained willingness of the commissions to consider their recommendations to have been implemented when in fact they have only been partially complied with. For

example, the Comisión Nacional de Derechos Humanos (CNDH) (National Human Rights Commission) does not consistently pursue its recommendations regarding prosecutions.

86. Military personnel appear to be immune from civilian justice and generally protected by military justice. The CNDH does have jurisdiction to make recommendations in respect of the behaviour of military personnel and it appears that its interventions have on occasion helped some held by the military. Neither the CNDH nor the Military Prosecutor General informed the Special Rapporteur of any prosecution of named military personnel for torture.

87. As far as prison conditions are concerned, the Special Rapporteur was able to visit only two state prisons and one of the two federal prisons. The visits were primarily for the purpose of meeting individual detainees. Nevertheless, what he saw in the state prison, together with statistics provided to him, suggested a genuine attempt to alleviate the main problem of overcrowding. The same seemed to be true in respect of the Interior Ministry's plans for both state and federal prisons. In general, he got the impression that the federal prison he visited at Almoloya provided decent conditions, but he was concerned that disciplinary measures were primarily within the discretion of institutional staff and that he was effectively denied the opportunity to visit those prisoners being segregated pursuant to disciplinary measures. A positive measure has been the decision taken by the Government in July 1997 to authorize the International Committee of the Red Cross (ICRC), in accordance with its mandate, to initiate visits to prisoners held in the CERESOS (Social Rehabilitation Centres) and the CEFERESOS (Federal Social Rehabilitation Centres).

88. The following recommendations are aimed at addressing the problems described above:

(a) Mexico is strongly urged to consider ratifying the Optional Protocol to the International Covenant on Civil and Political Rights and making the declaration provided for in article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, thus allowing the right of individual petition to the Human Rights Committee and the Committee against Torture, respectively. Similar consideration is urged with a view to ratification of Additional Protocol II to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts, and to making the declaration contemplated by article 62 of the American Convention on Human Rights concerning the compulsory jurisdiction of the Inter-American Court of Human Rights;

(b) A system of independent inspection of all places of detention by acknowledged experts and respected members of the local community should be established;

(c) The system of videotaping interrogations established in one precinct of Mexico City should be expanded to the country at large;

(d) Statements made by detainees should not be considered as having probative value unless made before a judge;

(e) Once a detainee has been brought before a prosecutor, he/she should not be returned to police custody;

(f) The public defender system should be radically overhauled, with a view to ensuring a substantial improvement in the competence, remuneration and status of public defenders;

(g) The database of dismissed police officers should be monitored closely to ensure that they do not transfer from one jurisdiction to another;

(h) All Procurator's Offices (Procuradurías Generales de Justicia) should establish a system of rotation among members of the police and of the Public Prosecutor's Office, in order to diminish the risk of establishing links that could lead to corrupt practices;

(i) The absence of marks on the body that would be consistent with allegations of torture should not necessarily be treated by the prosecutors and judges as proof that such allegations are false;

(j) Cases of serious crimes committed by military personnel against civilians, in particular torture and other cruel, inhuman or degrading treatment or punishment, should, regardless of whether they took place in the course of service, be subject to civilian justice;

(k) The military penal code should be amended to include explicitly the crime of torture inflicted on military personnel, as is the case in the federal penal code as well as most state codes;

(l) Doctors assigned to the protection, care and treatment of persons deprived of liberty should be employed independently of the institution in which they practise; they should be given training in the relevant international standards including the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. They should be entitled to levels of remuneration and conditions of work commensurate with their role as respected professionals;

(m) The initiative of the Comisión Nacional de Derechos Humanos (CNDH) to improve the law on compensation for victims of human rights violations should be supported;

(n) In view of the poor record of the Public Prosecutor's Office in prosecuting crimes committed by public officials, consideration should be given to the possibility of establishing an independent prosecution service with responsibility for such prosecutions, perhaps appointed by and responsible to Congress;

(o) Legislation should be enacted in order to make it possible for victims to challenge, before the judiciary, the failure of the Public Prosecutor's Office to initiate proceedings on human rights cases;

(p) A limit should be established by law to the duration of investigations on human rights cases, including torture, carried out by the Procurator's Offices (Procuradurías), irrespective of whether such investigations are the result of recommendations made by a human rights commission. The law should also establish sanctions in cases where the limit is not respected;

(q) Measures should be taken to ensure that the recommendations of human rights commissions are properly complied with by the authorities to which they are addressed. The involvement of the legislative and executive branches at the national and state levels in this respect would be desirable;

(r) Efforts should be pursued to increase awareness among personnel of the Procurator's Offices (Procuradurías) and the judiciary that torture should not be tolerated and that those responsible for this crime should be punished;

(s) Cases of threats and intimidation against human rights defenders should be fully investigated.

Notes

1/ For the role of lawyers in this type of situation, see paragraph 37.

2/ Cases quoted in the table which appears in the annex.

3/ According to this recommendation, the CNDH found evidence of the army's responsibility in cases of house searches, threats and intimidation and enforced disappearances.

4/ Report of the National Human Rights Commission (June 1990-September 1997), October 1997, p. 5.

5/ CNDH: Annual Report of Activities, May 1996-May 1997, p. 32.

6/ Complaints against the army are referred to the CNDH.

7/ RUIZ HARRELL, Rafael: "La confesión y la tortura", Document No. 6, Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C., pp. 12-18.

8/ The human rights commissions were established under article 102 (b) of the Constitution, according to which "the Congress of the Union and the state legislatures, each within the scope of its jurisdiction, shall establish bodies for the protection of those human rights set forth in Mexican law, which bodies shall hear complairts concerning administrative acts or omissions committed by any authority or public servant, with the exception of a servant of the federal judiciary, who violates those rights. They shall make independent, non-binding, public recommendations and submit allegations and complaints to the relevant authorities".

9/ Recommendations 73/91, 111/91, 32/92, 42/92, 177/92.

10/ Recommendations 1/91, 17/91, 68/91, 73/91, 32/92 and 78/92.

11/ The study, which was carried out in August 1997, examined the 106 recommendations regarding torture published in the CNDH Index covering the period from June 1990 to December 1996, as well as four others not listed in the Index but mentioned in the Commission's latest annual report published in May 1997; total of 110 recommendations.

12/ The remaining 31 recommendations concerned municipal authorities in various states.

13/ The Network gives the following information on the others: arrest warrants denied: 3; arrest warrants not served: 5; release orders: 2; death of suspected torturer: 1; cases referred elsewhere: 2; arrest warrants executed but no information on whether a detention order was issued: 7; no information on whether detention orders were issued: 8.

14/ According to article 324 of the Code of Military Justice, violence against prisoners of war, detainees, prisoners on remand or the wounded is punishable (i) by six months' imprisonment for verbal abuse; (ii) by a penalty corresponding to the injury caused in cases of physical abuse, with the victim's condition being regarded as an aggravating circumstance; (iii) by two years' imprisonment if the abuse does not cause an injury but causes physical or cruel suffering or deprives the wounded person, prisoner of war, detainee or remand prisoner of necessary treatment or food.

ANNEX

Selected cases submitted by non-governmental organizations to the Special Rapporteur on the question of torture for the years 1996-1997

State: Chiapas

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Amado Hernández Mayorga, aged 75, and Andrés Alvarez Gomez	27 January 1997	Community of Lázaro Cárdenas, municipality of Sabanilla	Public Security Police accusing them of causing a clash	Beating, simulated drowning in a water tank, burns on the eyelids and eyelashes	Released some hours later, after they had been photographed in an EZLN uniform
Jerónimo Hernández López and Gonzalo Rosas Morales, Jesuit priests, Francisco González Gutiérrez and Ramón Parcero Martínez	8 March 1997	Palenque	Judicial and Public Security Police forces	Blows with guards' weapons	Remained incommunicado for 20 hours. Released on 13 March 1997
Mariano Pérez Glez, Abrahám López Glez, Pascual Méndez Glez, Mariano Glez Diaz and Pedro Glez Sánchez	14 March 1997	Indigenous community of San Pedro Nixtalucum	State Judicial Police (PJE), which raided the community and arrested over 20 persons	Displayed multiple bruising and burns resulting from the treatment they received	They were all obliged to sign blank statements
Domingo Gómez Gómez, aged 21, member of Tzotzil indigenous community	18 July 1997	San Cristóbal de las Casas	Federal Judicial Police (PJF) which accused him of being linked to the disappearance of two persons	Beating when blindfolded, simulated drowning in a water tank with hands tied, plastic bag over the head	On the following day, he was brought before the Public Prosecutor and then released

State: Chihuahua

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Juan Martínez Jácquez	7 October 1996	Rancho El Manzano, section San Juan Nepomuceno	Five members of the army	Blows, hung by one arm from a tree. No mention in medical certificates	A complaint was lodged before the chief of the Preliminary Investigations Office in Hidalgo del Parral
Valentin Carrillo Saldaña	12 October 1996	San Juan Nepomuceno, municipality of Guadalupe y Calvo	The army, according to witnesses, although the military denied the arrest	His body was found on 17 October 1996. The autopsy revealed a bursting of the bowels, heart attack, suffocation, internal bleeding, signs of hanging, blows to arms and legs	Military personnel allegedly currently under trial in Mazatlán, Sinaloa

State: Federal District

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Alejandro Pérez de la Rosa	22 December 1996	Arrested for his participation in a restaging of the events for which he had been charged, at the place where the events had occurred. He was tortured in the course of the restaging	Judicial Police of the Federal District (PJDF), which accused him of taking part in the murder of a former official of the Procurator's Office, for which he worked as a driver with his family	Twisting of one arm and pressure on a head wound, apparently drugged, to oblige him to sign a confession which later appeared in the press	The restaging of events referred to earlier was carried out without the presence of counsel. A complaint for torture was lodged before the Human Rights Commission of the Federal District (CDHDF). The officiating judge did not accept the family doctor's examination report
Cornelio Morales González	18 June 1997	Alameda Central. Transferred to PJDF in Arcos de Belem	PJDF	Beating. Medical certificate issued by Balbuena hospital	Member of Democratic Revolution Party (PRD). Released without charges. Complaint before the CDHDF and before the Public Prosecutor's Office
Antonio Aguilar Hernández	1 September 1997	Barrio Asunción Tlacoapa. Transferred to a place he could not identify	Individuals who were not identified but who are suspected of belonging to the security forces	Beating, electric shocks, plastic bag over the head, death threats	Questioned regarding activities related to his brother's arrest. Released after a few days.

State: Guerrero

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Teodoro Juárez Sánchez and Ramiro Jiménez Sonora, members of the Organización Campesina de la Sierra Sur (OCSS) (Southern Sierra Peasants' Organization)	1 July 1996	Sierra de Coyuca de Benítez. Transferred to the port of Acapulco by helicopter	Army	Beating, electric shocks, death threats to force them to admit that he belonged to the EPR and had arms	T. Juárez was allegedly suspended several times by the feet head down from the helicopter
José Nava Andrade, member of the Organización de Pueblos y Colonias de Guerrero (OPCG) (Guerrero Villages and Settlements Organization)	2 July 1996	Chilpancingo	Agents of the Ministry of the Interior, who interrogated him concerning the EPR	Allegedly subjected for four days to different forms of torture, such as beatings, drug injection, pumping of town gas into the rectum and being hung up by the feet	His condition was allegedly verified in the clinic where he was treated
Lorenzo Adame del Rosario, aged 24, and Jerónimo Adame Benítez, aged 20, members of OCSS	4 July 1996	Vicinity of Yerbasantita, Sierra de Coyuca de Benítez. Transferred to the port of Acapulco by helicopter	Army	Submerged in a river, tied all night to a tree in the rain, beatings. In Acapulco electric shocks and fizzy water forced through the nose	Forced to sign a statement. Brought before the Public Prosecutor on 8 July
Cleofás Sánchez Ortega, Pedro Barrios Sánchez, Gonzalo Sánchez Mauricio and Gervasio Arce Gaspar, members of OPCG	7 July 1996	Coyuca de Benítez, later transferred to Chilpancingo	PJE	Head covered by plastic bag, electric shocks, submerged in a pool of water with hands tied, threats to admit belonging to EPR	Brought before the Public Prosecutor on 19 July

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Marcelino Zapoteco Acatitlán, 17-year-old native, and Pedro Valoy Alvarado	8 July 1996	Chilpancingo	Preventive police, which transferred them to module 3 of the Colonia Indeco municipal police	Beaten while accused of robbery	Marcelino Zapoteco was transferred to the Guardianship Council, where he was said to have been beaten by another inmate. He died a few days later
Andrés Tzompaxtle Tecpile, EPR member	25 October 1996	Zumpango del Río. Led blindfold to an underground site in Chilpancingo	Army	Allegedly subjected for two months to frequent sessions of torture, with electric shocks, head enclosed in a plastic bag, hanging, beating, etc.	Allegedly transferred initially to the military camp of Llano Largo in Acapulco and later to the military base of Teotihuacán, from which he reportedly escaped in February 1997. A complaint was lodged with the CNDH
Luis Gonzaga Lara, Nahuatl peasant	20 and 27 December 1996	Community of Tehuaxtitlán, municipality of Olinalá	Army	Beatings	Questioned about a PRD sign on the wall of his house. Complaint lodged with CNDH
Magencio Abad Zeferino Domínguez	27 December 1996	Olinalá. Transferred first to Tapla and later to Chilpancingo	PJE	Beatings, electric shocks, pins under his toenails while being questioned about EPR activities	Interrogated about the EPR. Released on the following day. Complaint lodged with CNDH

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Alfredo Rojas Santiago, Mixtec native	16 February 1997	Community of La Soledad, municipality of Xochistlahuaca	PJE	Severely beaten for about 30 hours without receiving any sustenance	Was forced to set his mark on a statement despite not being able to read and understanding little Spanish
Emilio Ojendiz Morales, José Abelino Cervantes, Juan Paulino Cervantes, José Abelino Pérez, aged 17, Juan Salvador Abelino, municipal representative	3 April 1997	San Miguel Ahuelicán, municipality of Ahuacuotzingo	Personnel of 35th military zone who took them to the municipal police station	Beatings, plastic bag over the head, death threats while being interrogated about allegedly possessing weapons	Arrests carried out as part of a military operation with soldiers violently entering community houses. Complaint lodged with CEDH
José Mariano Abelino and his son José Abelino Salvador	6 April 1997	At his home in San Miguel Ahuelicán, municipality of Ahuacuotzingo	Four members of the army and the Federal Judicial Police	At the municipal police station they were beaten and had plastic bags placed over their heads	Complaint lodged with CEDH
Marcelino Avelino Felipe, aged 28, and Pedro Avelino Felipe, aged 18, both members of the indigenous community	6 April 1997	Pochutla, municipality of Ahuacuotzingo	Personnel of the 35th military zone	Beatings, plastic bag placed over the head, water poured into the mouth and nose	Interrogated about alleged participation in attack on the military. Constantly harassed by the military at their homes in the days that followed
Abelino Tapia Marcos, aged 56	6 April 1997	Alpoyelcatcingo, municipality of Ahuacuotzingo	Army	Beating, forced to dig his own grave, attempts to drown him in the river	

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Abelino Tapia Morales, aged 70	6 April 1997	At his home in the community of Alpoyelcatcingo, municipality of Ahuacuotzingo	Personnel of the 35th military zone in the course of an operation carried out following an attack allegedly by the guerrilla	Beating, suspended from a cliff with the threat of being dropped	Interrogated about the location of arms and assailants. Freed two days later
Juan Cervantes Paulino, his brother Marcos, and Martín García Salvador, natives	14 April 1997	Cotlamaloya, municipality of Atlixtac	Personnel of the 35th military zone, who interrogated them about their alleged participation in an attack on the military	Beatings, hung by the neck to a tree, electric shocks and forced to drink great quantities of water	Released on 2 May after being threatened not to tell about the tortures. Some of the tortures were inflicted at the Chilpancingo barracks
Pascual Rodríguez Cervantes, aged 27, deputy municipal representative of San Miguel Ahuelicán, Agustín Ojéndiz Cervantes, Virginio Salvador Abelino	16 April 1997	Jojutla, Morelos. All residents of San Miguel Ahuelicán, municipality of Ahuacuotzingo	PJE and army personnel, who took them blindfolded to a place they could not identify. Later transferred to the military barracks of Chilpancingo	Beatings, electric shocks, hanging	During the interrogation, they were urged to hand over military weapons which they had allegedly stolen in the course of an attack. Complaint lodged with the CEDH. Release ordered later by the Public Prosecutor's Office
Eulalio Vázquez Mendoza, aged 44, peasant	17 April 1997	Cuonetzingo, municipality of Chilapa de Alvarez	PJE, which accused him of homicide	Beating, plastic bag over the head	Complaint lodged with CEDH

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Gabriel Salvador Concepción, native	20 April 1997	At his home in Alpoyecancingo, municipality of Ahuacuotzingo	Army personnel and PJE	Beatings, hanged by the neck from a tree, forced to drink a great quantity of water, electric shocks, knife cuts	Accused of having bought a weapon stolen in the course of an attack on the military. Released on 10 May
Hilario Atempa Tolentino, sectional leader of PRD, Anacleto Tepec Xinol and Pablo Gaspar Jimón	25 May 1997	Xocoyozlintla, municipality of Ahuacuotzingo	Army	In a location they were unable to identify because they were blindfolded, they were allegedly beaten and received death threats	Interrogated about alleged militancy in EPR. Gaspar Jimón's head was allegedly wrapped in a cloth and water was poured into his mouth and nose
José Santiago Carranza Rodríguez and Juan Leonor Bello	26 May 1997	Temalacatzingo, municipality of Olinalá	Army	Beaten until they lost consciousness, plastic bags over their heads while they were interrogated about the EPR	Complaint lodged with the CNDH
Leonardo Bardomiano Bautista, primary school teacher	26 May 1997	San Martín Jolalpan, municipality of Cualac	Military and police personnel	Beatings, forced to drink great quantities of water while kept blindfolded	Interrogated about the EPR. Complaint lodged with the CNDH
Martín Barrientos Cortés, aged 19, member of PRD	28 May 1997	Near Cucuyachi, municipality of Atoyac. Possibly transferred to Petatlán and subsequently to San Francisco de Tibor and Acapulco	Army	Beating, electric shocks, dirty water forced into mouth and nose. The injuries produced are listed in a medical report dated 14 June 1997	Released on 9 June. Threatened with death if he revealed information concerning his arrest, interrogation and torture

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Marcos Ignacio Felipe and Bertín Matías Sixto	2 June 1997	Chilapa	Individuals in civilian clothes who did not state their identity but were suspected of belonging to the army	Electric shocks, forced to drink great quantities of water	Interrogated about the EPR. Released a few hours later. Complaint lodged with CNDH
Juan Julián González Martínez and Faustino Martínez Basurto	8 June 1997	Tlapa	Individuals in civilian clothes who did not state their identity but were suspected of belonging to the security forces. Transferred to a location they were unable to recognize because they were blindfolded	Beatings, simulated execution, hung from a tree while being interrogated about the EPR	Released the following day and threatened not to tell about the events. Complaint lodged with the CNDH

State: Hidalgo

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Rodrigo Cuauhtémoc Delgado Cordero	31 March 1996	Tula	PJE, which accused him of theft. Taken first to Pachuca and then to Tula	Beating, threats, forced to sign a self-incriminating statement	On 17 July 1997 an amparo appeal was lodged before the High Court of Justice of Hidalgo

State: Morelos

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
José Carrillo Conde, aged 53, peasant	4 January 1996	Tepoztlán	PJE, which transferred him to the cells of Cuernavaca	Beating. Marks of blows found by members of an NGO	The medical examination conducted on 3 January makes no mention of injuries. Complaint lodged before CEDH
Laurencio Guarneros Sandoval, Ricardo Ruiz Camacho, Remigio Ayala Martínez, aged 17, Julio Bello Palacios, minor	11 January 1997	On the road between Yautepec and Tepoztlán	Preventive police force of Yautepec, who took them to the police station of that town	Beatings and especially death threats and intimidation for two days before being transferred to prison	
A group of over 200 inhabitants of Tepoztlán who were taking part in a peaceful march	10 April 1996	San Rafael Zaragoza, municipality of Tlaltizapán	Anti-riot squad belonging to the Public Security Directorate	Indiscriminate beating of men, women and children. For several hours the wounded remained lying on the ground exposed to the weather	Over 40 persons were injured, 6 of them seriously, and 1 person died of gunshot wounds. The CNDH issued recommendation 39/96

State: Oaxaca

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Estanislao Martínez Santiago, peasant, aged 25, originating from Santa Cruz Oaxaca	1 September 1996	Near Copalito	PJE, which allegedly transferred him to San Mateo Peña	Beaten while being accused of taking part in a clash. Deprived of food and drink for two days	Forced to put his mark to documents which he could not read. On 3 September 1996, he was brought before the Public Prosecutor. He was then imprisoned
Francisco Valencia Valencia	2 September 1996	As he descended from a passenger van at El Manzanal	Judicial police officers, who took him in the direction of San Miguel Zuchitepec and later to La Crucecita	Beating, electric shocks while being interrogated about an armed guerrilla attack	Admitted to the prison of the town of Oaxaca
Evaristo Peralta Martínez, member of the Committee for the Defence of the Interests of the People	4 September 1996	Miahuatlán. Taken to a place in the town of Oaxaca which he was unable to identify	PJE	Threats against him and his family, blows on the ears, electric shocks	Forced to sign a paper stating that he had not been tortured. Transferred to the State Procurator's Office (PGJE)
Amadeo Valencia Juárez	6 September 1996	San Agustín Loxicha	Joint operation by the preventive police, PJE, PJF and army	Beating, electric shocks	Interrogated about the EPR. Forced to sign blank sheets
Roberto Antonio Juárez, member of the Zapotec community, aged 21, municipal police	7 September 1996	Loma Bonita Loxicha, Pochutla	PJE, which interrogated him about some weapons. Later transferred to Huatulco and Oaxaca	Beating, electric shocks, forced to drink dirty water	Brought before the Public Prosecutor in Oaxaca and admitted to the prison of Ixcotel. Injuries observed by a PGJE doctor

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Oliverio Pérez Felipe, aged 17, native peasant	8 September 1996	Santa Lucia del Camino, following a clash between the police and members of the EPR	PJE	Beatings, electric shocks, plastic bag over the head, food deprivation	Transferred to the PGJE. Complaint lodged with the CEDH
Régulo Ramírez Matías	8 September 1996	La Crucecita	PJE, which accused him of guerrilla connections	While blindfolded, was beaten and received electric shocks	Forced to sign documents that he could not read. On 11 September he retracted his statement before the fifth District judge. Admitted to the prison of Oaxaca and subsequently detained in the Reclusorio Norte prison
Mario Guzmán Olivares, aged 21, student	15 September 1996	Oaxaca, taken to two different places which he was unable to identify	Individuals in civilian clothing suspected of belonging to security organizations, who questioned him about the EPR	Sleep deprivation, forced to do physical exercise, death threats	Complaint lodged before the Public Prosecutor's Office on 21 September 1996. Medical certificate issued there mentioning injuries
Razhy González Rodríguez, journalist	17 September 1996	Oaxaca. Taken to a place outside town which he was unable to identify because he was blindfolded	Individuals in civilian clothing suspected of belonging to security organizations, who questioned him about the EPR	Beating, especially with flat hands over the ears, death threats	The CEDH referred the complaint to the CNDH

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Fortino Enríquez Fernández, Emiliano José Martínez, Luis José Martínez, municipal authorities	25 September 1997	San Agustín Loxicha	Joint operation by the preventive police, PJE, PJF and army	Beating, death threats	Forced to sign a statement under threat recognizing connections with the EPR
Manuel Ramírez Santiago, peasant, member of the Committee for the Defence of the Rights of the People, and Fermín Oseguera, tradesman, member of the Carpenters' Union of Tlaxiaco	22 October 1996	Tlaxiaco	Armed individuals suspected of belonging to the PJE and PJF travelling in a vehicle without registration plates	Beatings, electric shocks, semi-asphyxiation, cigarette burns while being interrogated concerning EPR activities	Released on 1 November 1996. Complaint lodged with the CEDH. Injuries allegedly reported in medical certificates established after release
Felipe Sánchez Rojas, President of the Indigenous Regional Development Centre	28 October 1996	Oaxaca	Individuals in civilian clothing suspected of belonging to security organizations, who interrogated him about the EPR	Beatings	Released on 2 November 1996. Complaint lodged before the PGJE
Jose Martinez Espinosa, aged 34, teacher. member of the Committee for the Defence of the Rights of the People in Teposcolula	8 January 1997	On the way to the municipality of San Pedro Mártir, Yucuxaco, Tlaxiaco	Individuals suspected of belonging to the security forces travelling in a vehicle without registration plates	Once in the vehicle he was blindfolded and his hands were tied. From time to time he was forced to leave the vehicle and do abdominal exercises under threat of a gun	Interrogated concerning the EPR. Released several hours later in lonely spot
Raciel Santiago Salinas and his son	24 January 1997	Tuxtepec	PJE	Beating. His son had his arm broken	

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Gumersindo González Alfonso, aged 19, Pantaleón Julián Anastasio, aged 31, and Oscar Olivera Castillo, aged 18.	2 May 1997	Tuxtepec	Three members of the PJE who came to the municipal prison two days after the arrest in order to interrogate the detainees	Beating, plastic bag over the head, chile powder forced into the nose. Injuries are described in a medical certificate	Complaint lodged with the Public Prosecutor's Office
José Hernández Chávez, aged 14	15 July 1997	Tuxtepec	PJE	Beating, plastic bag over the head. Injuries recorded in a medical certificate	
Rodolfo Ceo Soto	15 July 1997	Tuxtepec	PJE	Beating, injuries reported in medical certificate	Complaint lodged with the Regional Sub-Procurator's Office of the Papaloapan Valley
Juan José Urista Cigarroa, aged 18, and Mateo Clemente Flores, aged 14	31 July 1997	Municipality of Tuxtepec	PJE	Beating, blows over the ears	The Public Prosecutor's Office allegedly refused to initiate proceedings for torture

State: Sonora

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Alberto Gómez Garcia, Mariano Sebastian Rodriguez Godinez and Mario Carlos Fernández Romero, officials of the Public Prosecutor's Office	24 May 1997	San Luis Rio Colorado	PJE, which accused them of stealing cocaine from the offices of the Attorney-General of the Republic (PGR). Transferred initially to the military barracks and later to the 23 Cavalry Regiment of Mexicali, Lower California, where they were tortured by army personnel	Electric prodding, drowning, beating, deprivation of food and water, death threats to force them to incriminate themselves	They remained incommunicado for 18 days. Complaints were lodged before the CNDH and the CEDH of Lower California and before the Public Prosecutor's Office, which forwarded the complaint to the Prosecutor's Office for offences against health, which is also investigating the accusation of theft

State: Tabasco

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Felipe Pérez Calcaneo, aged 29	5 December 1996	Villahermosa	Municipal Police and PJE	Beating, forced to inhale mineral water. Injuries recorded by the forensic physician of the Procurator's Office	The CEDH concluded that there had been human rights violations
José López González, aged 13 and Reynaldo Ramirez Méndez, aged 9	28 April 1997	Municipality of Emiliano Zapata	PJE, which accused them of theft	Beating. José López González was also submerged in a water tank	

State: Tamaulipas

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Rebeca Hernández Gaitán, aged 26	1 February 1996	Nuevo Laredo	PJE	Beatings for approximately three hours	Forced to sign a confession that she was carrying drugs. Sentenced to imprisonment
Luis Enrique Muñoz	9 May 1996	Reynosa	PJE, which accused him of homicide	Beating while bound hand and foot, plastic bag over the head	Retracted his confession before the judge
Jesús Cruz Castillo, Armando Santos Orozco, Ricardo Kavieses Soto	12 June 1996	Reynosa	Guards of the local CERESO (Social Rehabilitation Centre)	Beaten on being recaptured after attempting to escape from the CERESO	The CNDH found evidence of torture and issued recommendation 105/96. The Public Prosecutor's Office has made no progress with the investigation and nobody has been arrested
Raúl Magaña Ramírez	22 July 1996	Reynosa	Federal Fiscal Police	Beating	Injuries found by a physician of the State Procurator's Office (PGJE)
Juan Luviano Garcia and Juan Rodriguez Garcia	31 July 1996	Municipality of Nuevo Laredo	Army	Beating. Injuries found in the course of medical examination ordered by the Public Prosecutor's Office	Arrested for drug trafficking
Juan Lorenzo Rodriguez Osuna	28 November 1996	Municipality of Altamira	PJE (names unknown)	Beating, death threats to confess having taken part in a murder	

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Erick Cárdenas Esqueda, aged 16	4 January 1997	Nuevo Laredo	Municipal police, which took him to its premises where he died a few hours later	His body showed marks of torture	The CDHE has carried out an investigation. Nobody has been brought to trial
José Gómez Sánchez, aged 30	13 July 1997	Nuevo Laredo	Municipal police, which accused him of theft	Beating in front of his family and neighbours. Never saw a doctor	NGO examined his injuries

State: Veracruz

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
David Garcia Hernández	21 February 1996	Xalapa	PJE. Taken to the Cavalry Regiment of the State Public Security and later to the PJE base in Herminio Cabañas	Beating, electric shocks, submerged in a water tank to confess participation in a robbery	On the following day, transferred to the Civil Hospital, where he was again interrogated and threatened. Complaint lodged with the Public Prosecutor's Office
Guillermo Tolentino Tolentino, member of Otomi indigenous community	12 March 1996	Community of Plan del Encinal, municipality of Ixhuatlán de Madero	Public Security Police, which accused him of cattle theft	Beating. His wife and 11-year-old daughter were also beaten	Released after a few hours. Not brought before the Public Prosecutor

Name	Date of arrest	Place of arrest	Suspects	Methods of torture	Other
Ricardo Ubaldo, aged 34, Juan José López Reyes, aged 22	24 October 1996	Córdoba	PJE, which suspected them of travelling in a stolen vehicle	The bodies bearing torture marks appeared in the rural cooperatives of El Nache, municipality of Cuitlahuac, and Paso Real respectively	The State Procurator's Office ordered the arrest of several policemen
Francisco Hernández Santiago, teacher, member of the Committee for the Defence of Indigenous Rights of Veracruz	28 February 1997	Travelling from Chicontepec to Mexcatla, after taking part in a peaceful demonstration	PJE, which took him blindfold to a place he was unable to identify	Beating when blindfolded and handcuffed	On 2 March, brought before the Public Prosecutor of Tuxpam. The prison doctor found no marks of beatings

Abbreviations:

CDHDF: Comisión de Derechos Humanos del Distrito Federal (Federal District Human Rights Commission)

CEDH: Comisión Estatal de Derechos Humanos (State Human Rights Commission)

CNDH: Comisión Nacional de Derechos Humanos (National Human Rights Commission)

EPR: Ejército Popular Revolucionario (Revolutionary People's Army)

EZLN: Ejército Zapatista de Liberación Nacional (Zapatista National Liberation Army)

PJDF: Policía Judicial del Distrito Federal (Judicial Police of the Federal District)

PJE: Policía Judicial del Estado (State Judicial Police)

PJF: Policía Judicial Federal (Federal Judicial Police)

PRD: Partido de la Revolución Democrática (Democratic Revolution Party)

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